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HARV. L. REV. 391. A person having no property right in the thing shipped may sue on the contract of shipment if he is the person with whom or for whose benefit the contract was made. *Gratiot St. Warehouse Co. v. Missouri, K. & T. R. Co.*, 124 Mo. App. 545, 102 S. W. 11. But a suit in tort is allowed to one having a general or special property right in the thing shipped even though he be a stranger to the contract. *Schlosser v. Great Northern R. Co.*, 20 N. D. 406, 127 N. W. 502. The plaintiff has at least a "quasi-property right." *Larson v. Chase*, 47 Minn. 307, 50 N. W. 238; *Miner v. Canadian Pacific R. Co.*, 15 West. L. Rep. 161. See 28 HARV. L. REV. 322. Such an action is controlled by the law of the place where the cause of action arose, and in Alabama damages for mental anguish are recoverable. *Birmingham Transfer & Traf. Co. v. Still*, 7 Ala. App. 556, 61 So. 611.

CONSTITUTIONAL LAW — CONSTRUCTION, OPERATION, AND ENFORCEMENT OF CONSTITUTIONS — POWER OF ENGLISH COURT TO DECLARE AN ACT OF PARLIAMENT UNCONSTITUTIONAL. — The Defense of the Realm Consolidation Act empowered the King in Council to "issue regulations for securing the public safety and the defense of the realm," 5 GEO. V. c. 8. A regulation passed under this general power empowered the secretary of state to order the internment of any person "of hostile origin or association" where on the opinion of a competent military authority it appears expedient to do so. Reg. 146. Under this regulation a naturalized German was interned. He appealed on the ground that the regulation was unauthorized by the act and thus *ultra vires*. *Held* (Lord Shaw of Dunfermline, dissenting) that the regulation was authorized by the act. *Rex v. Halliday*, [1917] A. C. 261.

For a discussion of this case, see NOTES, p. 296.

CONSTITUTIONAL LAW — EQUAL PROTECTION OF THE LAWS — ACTION TO ENJOIN THE ENFORCEMENT OF TAXATION UNDER AN UNEQUAL ASSESSMENT. — The Constitution of Kentucky provided for the uniform taxation of all property, both corporate and individual, according to its fair cash value. Taxable property in general, however, was assessed at sixty per cent of actual values, while the defendants, constituting the Board of Valuation and Assessment, systematically and intentionally assessed the property of the plaintiff corporation at seventy-five per cent of its actual value. There being no diverse citizenship the jurisdiction of the federal courts was invoked under the equal protection provision of the Fourteenth Amendment. *Held*, that the acts complained of violated the Kentucky Constitution, and that an injunction should be granted. *Greene, Auditor, v. Louisville, etc. R. Co.*, 1917, U. S. Sup. Ct. Off. § 617.

The requirement of the Fourteenth Amendment that the states shall not deny the equal protection of the laws to any persons extends to the levying of taxes. See WILLOUGHBY, CONSTITUTIONAL LAW OF THE UNITED STATES, § 270. A sporadic case of inequality will not constitute a violation of the provision. *Supervisors v. Stanley*, 105 U. S. 305. See *Coulter v. Louisville, etc. R. Co.*, 196 U. S. 599, 609. But if the discrimination is persistent and systematic, though not sanctioned by the courts of the state, it will be reviewable in the federal courts. *Raymond v. Chicago Traction Co.*, 207 U. S. 20; *Home Tel. & Tel. Co. v. Los Angeles*, 227 U. S. 278. Because the sovereign may not be sued, the suit will be against the administrative officials. See GUTHRIE, THE FOURTEENTH AMENDMENT, 176. For the purposes of jurisdiction under the Fourteenth Amendment, however, their acts are regarded as the acts of the state, whose agents they are. *Chicago, etc. R. v. Chicago*, 166 U. S. 226; *Raymond v. Chicago Traction Co.*, *supra*. Whether the state does not thus become the actual party defendant must be determined by a consideration of the entire record. *Ex parte Young*, 209 U. S. 123. For unless the nominal defendants could be held liable independently and individually the suit could not be maintained.

Hagood v. Southern, 117 U. S. 52; *In re Ayres*, 123 U. S. 443. But it is immaterial whether they administer an unconstitutional law, or tortiously administer a valid one. *Truax v. Raich*, 239 U. S. 33; *Raymond v. Chicago Traction Co.*, *supra*. Where the federal question raised is not merely colorable the federal court acquires jurisdiction, and can decide the case on state questions. Nor will it lose its jurisdiction of the case by omitting to decide the federal question, even when upon the state questions relief could be had in the state courts. *Siler v. Louisville, etc. R. Co.*, 213 U. S. 175; *Michigan Central R. v. Vreeland*, 227 U. S. 59; *Louisville Trust Co. v. Stone*, 107 Fed. 305. In the principal case the plaintiff was entitled under the state laws and constitution to the relief sought. *Cummings v. Merchants Nat. Bank*, 101 U. S. 153; *Taylor v. Louisville, etc. R. Co.*, 88 Fed. 350. The jurisdiction of the court being established, therefore, there could be no dispute as to the propriety of the injunction. See 1 FOSTER, FEDERAL PRACTICE, 5 ed., 325, note 25.

CONSTITUTIONAL LAW — POWERS OF LEGISLATURE — IMPLIED POWERS — AUTHORIZATION OF NATIONAL BANKS TO ACT AS EXECUTOR. — The Federal Reserve Act provides that the Federal Reserve Board may "grant by special permit to national banks applying therefor, when not in contravention of state or local law, the right to act as trustee, executor, administrator or registrar of stocks and bonds" (38 Stat. at L. 251, 253, c. 6). *Held*, that the act is constitutional. *First National Bank v. Fellows*, 37 Sup. Ct. Rep. 734.

The general doctrine that Congress may properly authorize national banks to carry on such functions as are necessary to their existence as efficient governmental agencies must be accepted as firmly established. *Osborn v. Bank, 9 Wheat. (U. S.) 738*. Cf. *Legal Tender Cases*, 12 Wall. (U. S.) 457; *United States v. Marigold*, 9 How. (U. S.) 560. In the principal case the court interprets and extends this doctrine to permit the exercise by national banks, under federal authorization alone, of any functions necessary to enable them "effectively to compete with state banking corporations." And the provision in the statute that such right is to be granted only when not in contravention of state law does not weaken the force of the decision as an authority for the broad principle laid down. For unless such additional powers are necessary and proper for the effective maintenance of this federal agency they cannot constitutionally be granted at all. See *Martin v. Hunter's Lessee*, 1 Wheat. (U. S.) 304, 326; *McCullough v. Maryland*, 4 Wheat. (U. S.) 316, 405. And if such powers are necessary, state law cannot stand in the way. *M'Cullough v. Maryland, supra*; *Easton v. Iowa*, 188 U. S. 220; *Tennessee v. Davis*, 100 U. S. 257. It would seem, however, that some limit must exist to the power of the federal government to invade fields of state control through the gateway of the national bank. And on this ground the courts of Illinois and Michigan held the provision unconstitutional. *People v. Brady*, 271 Ill. 100, 110 N. E. 864; *Fellows v. First Nat. Bank*, 159 N. W. (Mich.) 335. The power to control the distribution of property, to determine the duties and qualifications of executors and administrators, has hitherto been held to lie exclusively within the jurisdiction of the separate states. *United States v. Fox*, 94 U. S. 315; *Brown v. Fletcher's Estate*, 210 U. S. 82. To admit that Congress may grant these new powers to national banks means also that the federal government may, if it pleases, control these activities to the exclusion of the states. For the private, as well as the public, functions of a national bank are potentially free from state taxation or regulation. *Osborn v. Bank, supra*; *Farmers' etc. Bank v. Dearing*, 91 U. S. 29; *Davis v. Elmira Savings Bank*, 161 U. S. 275; *Owensboro Nat. Bank v. Owensboro*, 173 U. S. 664. This seems to be the law in spite of a sound *dictum* by the court in the principal case that state regulations, if not discriminatory, would be controlling in the exercise of such business. See TIFFANY, BANKS AND BANKING, § 93. If these fields can thus be invaded by